

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Benjamin Bassi, Trustee of the
Marsha A. Bassi Revocable Trust

v.

Civil No. 12-cv-39-JD

Christopher John Krochina

O R D E R

Christopher John Krochina moves for reconsideration of the court's order remanding this case to state court. Krochina argues that the court erred in determining that subject matter jurisdiction is lacking. Benjamin Bassi objects to the motion for reconsideration, contending that pursuant to 28 U.S.C. § 1447(d) a remand order based on a lack of subject matter jurisdiction cannot be reconsidered. Krochina filed a reply but did not address the effect of § 1447(d).

Section 1447(d) bars review of remand orders for lack of subject matter jurisdiction "on appeal or otherwise," except in cases removed based on 28 U.S.C. §§ 1442 and 1443.¹ Courts have interpreted § 1447(d) to bar review by reconsideration as well as

¹Despite the statutory prohibition against review of remand orders, based on 28 U.S.C. § 1447(c), the Supreme Court has created numerous exceptions to the rule. See Osborn v. Haley, 549 U.S. 225, 264-65 (2007) (J. Scalia dissenting). None of the exceptions applies in this case.

on appeal. See Bender v. Mazda Motor Corp., 657 F.3d 1200, 1203 (11th Cir. 2011) (citing cases); Shapiro v. Logistec USA, Inc., 412 F.3d 307, 311-12 (2d Cir. 2005) (citing cases); Gautier-Figueroa v. Bristol-Myers Squibb P.R., Inc., --- F. Supp. 2d ---, 2012 WL 639290, at *20 (D.P.R. Feb. 29, 2012). Therefore, the remand order in this case is not reviewable for purposes of reconsideration. Cok v. Family Court of R.I., 985 F.3d 32, 34 (1st Cir. 1993).

Bassi also asked for an award of attorneys' fees and costs incurred in responding to Kroch이나's motion for reconsideration. The court will not award fees or costs at this time. However, Kroch이나 is now on notice of the effect of § 1447(d) for purposes of future filings.

Conclusion

For the foregoing reasons, the defendant's motion for reconsideration (document no. 18) is denied.

SO ORDERED.

/s/ Joseph A. DiClerico, Jr.
Joseph A. DiClerico, Jr.
United States District Judge

June 18, 2012

cc: Patricia M. Panociocco, Esq.
Jennifer L. Parent, Esq.
Christopher John Kroch이나, pro se